

CITY COUNCIL

SPECIAL MEETING MINUTES

May 3, 2013 - SPECIAL MEETING

The Special Meeting of the City Council of the City of Shreveport, State of Louisiana was called to order by Chairman Michael Corbin at 3:35 p.m., Friday, May 3, 2013 in the Government Plaza Chambers, 505 Travis Street.

Invocation was given by Councilman Joe Shyne and the Pledge of Allegiance was led by Jeff Everson.

On Roll Call, the following members were present: Councilmen Jeff Everson, Oliver Jenkins, Michael Corbin, Joe Shyne and Sam Jenkins. 5. Absent: Councilwoman Rose Wilson-McCulloch and Councilman Ron Webb. 2.

Councilman Corbin: Thank you all for being here for a special meeting and thank you to our staff for giving up part of a Friday afternoon and for the public being out today. We have two items on our short agenda today. First we will have a resolution to consider and second is to move into executive session and discuss the ongoing negotiations with Department of Justice and EPA. At this time are there any public comments?

Public Comments:

Councilman Shyne: I have one Mr. Chairman. Ms. Scott, I told the Chairman to let's hurry up and get started because you got two attorneys back there and they might be on the clock and you know how you all are.

Councilman S. Jenkins: They were on the clock when they left home this morning.

Councilman Shyne: Well, Sam you ought to know.

Councilman O. Jenkins: I do have another thing. I'm sure you all have seen of this email traffic about how potentially moving monies around to be able to move forward on some other projects and that are in the bond issue that are currently being kind of held because of some other scheduling issues with regards to engineering and everything, so I do want to just take this point now to recognize the efforts of Sherricka and some of the other folks that are working on this right

now. I do think it will get us some more projects in the pipeline quicker if we can get it all worked out both legally and processed in accordance with our processes but, I'm optimistic at this point.

Ms. Sherricka Fields: Also Councilman Jenkins, right before this meeting I sent email response memo out to you all. So you may have not seen it yet but I just want to let you know that we did send a response to you. If there are any other questions just let us know.

Councilman O. Jenkins: Okay, great. I have not seen it but I will look.

Councilman Corbin: Jackie, do we have any public request to speak?

Ms. Jacqueline White: No we don't.

Councilman Corbin: Very good. So at this time Mr. Thompson we need a motion on or resolution or do we need to read the resolution.

Mr. Thompson: At least the title, Mr. Chairman.

The Clerk read the following:

A Resolution by the Governing Authority of the City of Shreveport to publicly comment on issues involved in the Keith v Glover Lawsuit (Suit No: 567,251-C, First Judicial District Court, Caddo Parish), and to otherwise provide with respect thereto

Councilman Corbin: Thank you Mr. Thompson and I think all of our council members have been supplied a copy of this resolution via e-mail. Is there any discussion, any questions?

Read by title and as read, motion by Councilman <u>O. Jenkins</u>, seconded by Councilman <u>Everson</u> to adopt. Motion approved by the following vote: Ayes: Councilmen Everson, O. Jenkins, Corbin, Shyne, and S. Jenkins. 5. Nays: None. Absent: Councilwoman McCulloch and Councilman Webb. 2.

RESOLUTION NO. _68__ OF 2013

A RESOLUTION BY THE GOVERNING AUTHORITY OF THE CITY OF SHREVEPORT TO PUBLICLY COMMENT ON ISSUES INVOLVED IN THE KEITH V. GLOVER LAWSUIT (SUIT NO: 567,251-C, FIRST JUDICIAL DISTRICT COURT, CADDO PARISH), AND TO OTHERWISE PROVIDE WITH RESPECT THERETO

BY: COUNCIL CHAIRMAN MICHAEL CORBIN

WHEREAS, the lawsuit *Cynthia Keith v. Cedric Glover* has been filed by a non-public entity to compel the Mayor of the City of Shreveport to execute a Cooperative Endeavor Agreement between the City of Shreveport and the Red River Waterway District relative to the construction of a dog park; and

WHEREAS, the Mayor, in his official capacity, has filed an exception of no cause of action in the lawsuit advancing and urging a position with which the Shreveport City Council disagrees; and

WHEREAS, Section 4.33 of the Charter of the City of Shreveport states that the City Council is the Governing Authority of the City of Shreveport; and

WHEREAS, the Mayor is using resources of the City of Shreveport to advance a position that the Governing Authority believes to be contrary to the *Plan of Government* adopted by the Citizens of Shreveport; and

WHEREAS, therefore, the Governing Authority has a duty and an obligation to publicly comment on this matter, to state its position, and to clearly state the reasons and the authorities for that position.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Shreveport, in due, regular and legal session convened, that the City Council, as Governing Authority of the City of Shreveport, disagrees with the assertion of Mayor Glover (found in his memorandum in support of his exception of no cause of action in the *Keith v. Glover* lawsuit) that "his decision as to whether or not to sign a cooperative agreement between the CITY OF SHREVEPORT and the Shreveport Regional Dog Park (sic) is strictly a discretionary decision and non-ministerial duty."

It is the position of the Governing Authority that the Mayor is authorized and **required** by Resolution 133 of 2012 to sign the agreement, and therefore the performance of this duty is ministerial and non-discretionary, for the following reasons:

- 1. On May 13, 1978, Citizens of the City of Shreveport adopted the Charter of the City of Shreveport, as "The Plan of Government of the City of Shreveport".
- 2. That Charter was adopted in accordance with law; it became effective on November 28, 1978; it was amended by the Citizens of Shreveport on November 6, 1990 and on October 25, 1994, and it is the present plan of government for the City of Shreveport.
- 3. The City Council introduced Resolution No. 133 of 2012 on July 10, 2012, which "authorized and REQUIRED" (emphasis added) the Mayor to sign a cooperative endeavor agreement with the Red River Water Way District to construct a dog park.
- 4. After extensive discussion and debate by the Mayor, Council Members and the public over the next several months, and after several amendments, Resolution No. 133 was adopted on September 25, 2012.
- 5. Resolution No. 133 of 2012 was introduced, amended and adopted in accordance with Section 4.17 of the Charter and State law.
- 6. Resolution No. 133 was vetoed by Mayor Glover on October 4, 2012; the veto was overridden and Resolution No. 133 was readopted by a unanimous vote (a 2/3rd vote is

required) of the City Council on October 9, 2012, all in accordance with Section 4.21 of the Charter.

- 7. Resolution No. 133 of 2012 became effective on October 20, 2012; it has not been repealed or amended, and it is a valid resolution of the City of Shreveport today.
- 8. The Mayor has a non-discretionary, ministerial duty and obligation to sign the agreement authorized by Resolution No. 133 of 2012, because Resolution 133 states that "the Mayor is authorized and <u>required</u> (emphasis added) to sign the agreement"; and because Section 5.02 of the Charter reads in pertinent part as follows:

. . .

It shall be the **duty of the mayor to see that the provisions of this Charter, the ordinances and resolutions** (emphasis added) of the City, and all laws of the municipality are enforced.

Specifically, but not by way of limitation of the other provisions herein made, the mayor <u>shall</u> (emphasis added):

- (c) Sign all contracts, bonds or other instruments or documents requiring the assent of or execution by the City, except those which some other officer is authorized hereunder to sign, and be the custodian of the corporate seal;
- 9. No other officer is authorized to sign the agreement authorized by Resolution 133 of 2012.
- 10. In this Nation of laws, all persons, including public officials, are subject to, and are compelled to obey those laws. The Mayor of the City of Shreveport is no exception. He must obey the Charter, and carry out his ministerial duty to sign and execute the agreement authorized by Resolution No. 133 of 2012.

BE IT FURTHER RESOLVED that if any provision or item of this Resolution or the application thereof is held invalid, such invalidity shall not affect other provisions, items or applications of this Resolution which can be given affect without the invalid provisions, items or applications and to this end the provisions of this Resolution are hereby declared severable.

BE IT FURTHER RESOLVED that all Resolutions or parts thereof in conflict herewith are hereby repealed.

Executive Session: To discuss the City's negotiations with the United States of America and the State of Louisiana on the terms of a consent decree relative to the City's alleged violations of the Clean Water Act and/or the Louisiana Water Control Law.

Councilman Corbin: And before we move into executive session, I'd ask Attorney Scott if she would just make a few comments to the public and the media about changes since our last excessive session.

Ms. Scott: Good afternoon Mr. Chairman, members of the Council. Thank you again for agreeing to this Friday afternoon executive session. I'm joined today by Tim Hardy with the firm of Roedel and Parsons and his law partner will be joining us in a moment, Ms. Joyce Matthews. Really not a whole lot has transpired in terms of new information or updates since our April 5th executive session and the brief presentation that was given to the Council members prior to your convening into executive session. However, Mr. Hardy is here and going to provide a few additional comments, not necessarily in regard to anything that has transpired that is new in regard to our discussions with DOJ but just in regard to the Consent Decree process in general and as it relates to the City of Shreveport specifically. So, Mr. Hardy –

Mr. Tim Hardy: Thank you Ms. Scott. Mr. Chairman, members of the Council. My name is Tim Hardy from the firm of Roedel Parsons and I have been hired as outside counsel to handle this matter on behalf of the City of Shreveport. Let me just say, I'm proud to be here again today. Nothing really to report but I will sort of go over a little bit about without so much detail, what this is about. We are in the process of having negotiation with the Federal Government as a result of threatened action by them for SSO violations. Those are sanitary sewer violations of which in short are issues regarding collection system for the sewer system. There are actually breaks in the system You have sewerage coming out of those breaks. It's requirement of our permit and we have a permit under the Clean Water Act, it's actually called the LPDS because that authority has been delegated to the state. That permit requires that we don't have those emissions out of our sewer system. The good news is we have been working toward resolving that at times without any assistance from the government. It is my understanding that is what the City, the Administration, this Council wants to do. However the same time the Federal Government will have us sign off on a document where we will agree to perform certain things on certain time schedules. That is what the negotiation is all about. As you know it's all about money in terms of penalty and fine. It's all about time, how much time will we be given to undertake and complete this process when we no longer will have a violation. So those are the two sticking points that we have been dealing with thus far. Since I addressed you the last time we have had more negotiations. There have been some things where we have reached some agreement. Honestly, there are some areas where we might not be as favorable toward some things that have been proposed but for that reason and to update you I think it is appropriate to take you to executive session today. Are there any questions?

Councilman Corbin: Thank you Mr. Hardy.

Mr. Thompson: Mr. Chairman, would you like for me to read the motion. At this time you may want to consider a motion to hold an Executive Session to discuss the City's negotiations with the United States of America and the State of Louisiana on the terms of a consent decree relative to the City's alleged violations of the Clean Water Act and/or the Louisiana Water Control Law.

The persons who will be in the executive session if we go into one in addition to Council members who are present, Tim Hardy, Joyce Matthews, Barbara Featherston, Robert Campbell, Sherricka Fields, Arthur Thompson, Terri Scott and Sharon Pilkinton.

Motion by Councilman <u>Oliver Jenkins</u>, seconded by Councilman <u>Jeff Everson</u> to move into Executive Session. Motion approved by the following vote: Ayes: Councilmen: Jeff Everson, Oliver Jenkins, Michael Corbin, Joe Shyne and Sam Jenkins. 5. Nays. None. Absent: Councilwoman Rose Wilson-McCulloch and Councilman Ron Webb. 2.

Councilman Corbin: I will now move into Executive Session in the conference room. To those members of the public and the media, we will return to this room after executive session to adjourn the meeting.

The Council Convened into the Executive Session at 3:45 p.m.

The Chairman called the Special Meeting to order after the Executive Session and with there being no further business before the Council, the meeting adjourned at 5:22 P.M.
Michael Corbin, Chairman

Arthur G. Thompson, Clerk of Council